

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

STUDENT DOE, et al.,

Plaintiffs,

v.

ABINGTON FRIENDS SCHOOL,

Defendant.

CIVIL ACTION

NO. 22-0014

ORDER

AND NOW, this 4th day of November 2022, upon consideration of Defendant's Motion to Dismiss (ECF 8), Plaintiffs' Response (ECF 10) and Defendant's Reply (ECF 11) and after holding oral argument on the Motion (ECF 13), it is hereby **ORDERED** that, for the reasons stated in the Court's Memorandum:

1. Defendant's Motion is **GRANTED IN PART and DENIED IN PART.**

Plaintiffs' claims for intentional infliction of emotional distress and negligent infliction of emotional distress are **DISMISSED with prejudice.** The claim alleging violations of Title VI of the Civil Rights Act is **DISMISSED without prejudice.**

2. Defendant's Motion is **DENIED** in all other respects.
3. On or before **Friday, December 2, 2022**, Plaintiffs may file a Second Amended Complaint to allege facts sufficient to state a Title VI claim as well as that aspect of the breach of contract claim pertaining to the need to revise the Formal Education Plan in the ninth-grade year, consistent with the Court's Memorandum.

4. Defendant's request to strike punitive damages is **DENIED** as moot, as no remaining claims would entitle Plaintiffs to punitive damages. *See Barnes v. Gorman*, 536 U.S. 181, 189 (2002).

BY THE COURT:

/s/ *Gerald J. Pappert*
GERALD J. PAPPERT, J.